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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,013	03/30/2004	Tal Sela	27234	2802

7590 06/29/2005

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EXAMINER

FUQUA, SHAWNTINA T

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/812,013	SELA ET AL. C	
	Examiner	Art Unit	
	Shawntina T. Fuqua	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 9-11, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kao (US4356380).

Kao discloses a portable hand holdable electric cigarette lighter comprising an electrical resistance heating element (42), an electromechanical circuit (Figure 3, column 3, lines 32-43) connected to the heating element (42) and connectable to an externally located AC power supply (Figure 2, column 4, lines 13-14) providing a primary voltage of about 110 volts (column 3, lines 55-56), a step down voltage transformer in the range of 0.5-25 volts such that circuit transmits power having a secondary voltage to the heating element (column 3, lines 55-60), a portable hand holdable housing (10) for heating element and circuit (Figures 1, 2), heating element is supported in a non-conductive housing (column 2, lines 34-45), an actuating mechanism (48) which is activated by pushing motion and deactivated by a pulling motion in response to a visual detection on an increase in temperature (column 3, lines 32-54, column 4, lines 13-31), a double pole contactor (56) and releasable rod or bar assembly (48, 50), and an actuator automatically deactivated in response to an increase in temperature (column 3, lines 60-65).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-8, 12-13, and 15-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kao as applied to claims 1-3, 9-11, and 14 above, and further in view of Leishman (US6444953).

Kao discloses all of the recited subject matter except a finger activatable actuator, a metal heating element, an actuator with a longitudinally movable inner assembly having an end portion inside an outer assembly, geometrical dimensions of length, height, and width between 5-20 or 14 cm, 4-15 or 8 cm, and 15 or 10 cm, disposable/rechargeable batteries, a temperature of 500 degrees Celsius, and a battery recharging unit connectable with an AC power source. Leishman discloses a finger activatable actuator (5), an actuator with a longitudinally movable inner assembly having an end portion inside an outer assembly (Figures 1, 3, 5), a metal heating element (column 3, lines 26-27), and a DC battery power supply (column 3, lines 26-28, column 4, lines 24-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the finger actuator, metal heating element, and the DC battery as a power source of Leishman in the apparatus of Kao because, a finger actuator, metal heating element and DC power source allows the device to be operated in a safe manner and allows the device to be more portable.

Kao in view of Leishman discloses the claimed invention except for geometrical dimensions of length, height, and width between 5-20 or 14 cm, 4-15 or 8 cm, and 15 or 10 cm, a temperature of 500 degrees Celsius, disposable/rechargeable batteries, and a battery recharging unit connectable with an AC power source. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included geometrical dimensions of length, height, and width between 5-20 or 14 cm, 4-15 or 8 cm, and 15 or 10 cm, a temperature of 500 degrees Celsius, since such a modification only involves the size of the device. A change in size is generally recognized as being within the level of ordinary skill in the art. In addition, it has also been held that where the general conditions of a claim are disclosed in the prior art discovering the optimum range/temperature involves only routine skill in the art. Furthermore, disposable/rechargeable batteries and a recharging unit are conventional and well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included disposable/rechargeable batteries and a recharging unit, since it has been held that making a device portable or movable involves only routine skill in the art.

Conclusion

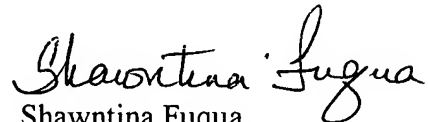
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawntina T. Fuqua whose telephone number is (571) 272-4779. The examiner can normally be reached on Monday-Friday 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

stf
June 24, 2005


Shawntina Fuqua
Patent Examiner
Art Unit 3742